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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/773,393

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Gregory Warren Goodknight

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09/13/2007

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EXAMINER

MILLS, DONALD L

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

09/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

### Application No.

09/773,393

### Applicant(s)

GOODKNIGHT, GREGORY  
WARREN

### Examiner

Donald L. Mills

### Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 22-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Note*

1. Applicant's request, filed 29 August 2007, for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. However, based upon an updated search the following rejection is presented.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22-31 are rejected under 35 U.S.C. 102(a) as being anticipated by “Series V: Data Communication Over the Telephone Network,” ITU-T V.8 bis, 1999, hereinafter Referred to as ITU-T.

Regarding claims 22 and 27, ITUT discloses the procedures for the identification and selection of common modes of operation between data circuit-terminating equipments and between data terminal equipments over the public switched telephone network, which comprises:

*A converter to receive a packet data stream intended for a packet domain and to convert the packet data stream into an altered data stream intended for transmission through a public switched telephone network; and*

*A controller to:*

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*Establish a connection through the public switched telephone network with at least one other network device using the altered data stream;*

*Send signals through the converter in the altered data stream identifying the network device as a packet device that can receive packet data;*

*Determine, using signals received from one of the other network devices, whether the other network device is a packet device that can receive packet data;*

*Send the packet data stream to the other network device, if the network device determines that the other network device is a packet device that can receive packet data; and*

*Send the altered data stream to the other network device, if the network device determines that the other network device is not a packet device and cannot receive packet data* (Note: the Examiner interprets the claim limitations as relating the negotiation process between data communications devices across a PSTN. The V.8 bis allows the multifunctional terminals to allow a desired communication mode to be selected by either the calling or answering station; allows terminals to automatically identify common operating modes; enables automatic selection between multiple terminals that share a common telephone circuit; and provides user friendly switching from normal voice telephony to a modem-based communication mode. See Appendix I.3-I.6, I.8, and II.1-II.6. Preceding the establishment of a PSTN modem connection across the PSTN the V.8 bis permits the terminals to exchange a list of communication modes. And each terminal is therefore able to establish the modes of operation it shares with the remote station. See Appendix I.4. In this manner, packet data communication can be established between

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packet data peers; otherwise, another mode operation is established between dissimilar peers.)

Regarding claim 23, ITU-T discloses *wherein the network device comprises a voice gateway* (V.8 bis allows the multifunction terminals, modems (voice gateways) to automatically establish operating modes. See Appendix I.2-I.5.)

Regarding claim 24, ITU-T discloses *wherein the packet data stream comprises one of either coded voice or data* (V.8 bis allows for either voice or data communication. See Appendix I.2-I.5.)

Regarding claims 25 and 29, ITU-T discloses *wherein the converter comprises one of either a voice coder/decoder or modem* (V.8 bis allows the multifunction terminals, modems, to automatically establish operating modes for voice and data communication. See Appendix I.2-I.5.)

Regarding claims 26 and 28, ITU-T discloses *wherein the controller employs one of either ITU V.8 protocols, or robbed-bit signaling to identify the network device as a packet device* (V.8 bis allows the multifunction terminals, modems, to automatically establish operating modes for voice and data communication. See Appendix I.2-I.5.)

Regarding claim 30, ITU-T discloses *gathering information on the other network device and storing the information for further use* (V.8 bis permits each terminal the capability to exchange a list of communication modes and then automatically selects the corresponding mode, requiring data storage for processing. See Appendix I.3-I.5.)

Regarding claim 31, ITU-T discloses *accessing a storage of known network devices based upon the signals received from the other device; locating information about the other*

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*network device; and using that information in determining whether the other device is a packet device (V.8 bis permits each terminal the capability to exchange a list of communication modes and then automatically selects the corresponding mode, requiring data storage for processing, based upon the configuration of the terminal device. See Appendix I.3-I.5.)*

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 22-31 have been considered but are moot in view of the new ground(s) of rejection as necessitated by the newly presented claims in the response filed 19 September 2006.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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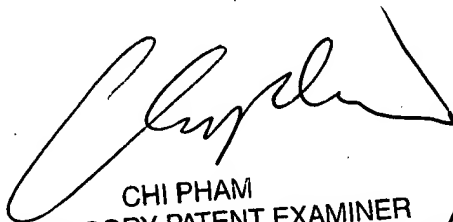
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Mills whose telephone number is 571-272-3094. The examiner can normally be reached on 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Donald L Mills/

September 7, 2007

  
CHI PHAM  
SUPERVISORY PATENT EXAMINER 9/11/07